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March 22, 1985

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FEDERAL EXPRESS

David Hird, Esq.
Room 1260
Environmental Enforcement Section
Land and Natural Resources Division
United States Department of Justice
Washington, D.C. 20530

Re: **United States, et al. v. Reilly Tar & Chemical
Corporation, et al.**

Dear David:

I have received your letter dated March 19, 1985, and
I have the following comments.

Your letter notes that the United States has objected
to the "production of documents from all of EPA's offices throughout
the nation, as unduly burdensome." You of course are aware that
Reilly has not yet pressed for production of EPA's PAH documents
from all of the agencies regional offices. We are pressing the
request for tapes or transcripts related to EPA's PAH criteria
document because it appears that they are of singular importance.

I take issue with your characterization of the United
States' production of documents in EPA's Chicago and Washington
offices. It was only after a delay of many weeks, involving Reilly's
abortive travels to Washington, that the documents we sought were
produced. As you will recall, it was only after your failure
to provide us with documents in Washington that Reilly refused
to provide you with its completed narratives on other Reilly sites.
You thereafter brought the issue before Judge Winton who ruled
that Reilly need not produce its narratives until the United States
had complied with its promised production. You did so and Reilly
provided its narratives on March 6, 1985. Discovery is a "two
way street."

DORSEY & WHITNEY

David Hird, Esq.
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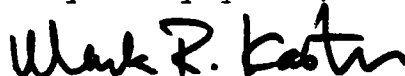
I understand that you view Reilly's narratives as incomplete because you feel they do not include the "historical" information requested. Your letter notes that you are seeking those documents concerning pollution and pollution control at Reilly's other sites during the period 1917 to 1972.

Reilly initially objected to this request because on its face it is unduly burdensome. It calls, for example, for the identification of each and every spill or leak, of whatever amount, that ever occurred at any Reilly facility, whether a coal tar refinery/wood treatment plant or not. You have now moved the court for production of these documents, with the limitation that you only seek those documents located at Reilly's headquarters in Indianapolis. We still view this request as an onerous commitment of time and resources. That is why we agreed to provide a narrative response. We also suggested that the United States was free to review the permits Reilly has procured over the years for its various operations.

Since you have filed your motion to compel, Reilly will more fully respond in written form next Monday, as agreed with Mr. Stoner, and during argument. I do wish to correct your statement that Mr. Wahoske was "too busy" to agree to an argument date. As you must know, Mr. Stoner first called Mr. Wahoske concerning this matter on Friday afternoon, March 15th, to request a hearing on the morning of Thursday, March 21st, with his brief to be delivered to us on Tuesday, March 19th. Mr. Wahoske stated he could not agree to a schedule which did not give us adequate time to prepare a written response to your brief before argument. Accordingly, when Mr. Stoner called the following Monday and suggested an argument date of March 26th with his brief due to us on March 20th and our responsive brief due to him on March 25th, Mr. Wahoske agreed.

As a final note, I suggest that your offer to produce the Cincinnatti documents is no offer at all. We believe those tapes, transcripts and documents are within the public domain. Your failure to identify these materials through the discovery process is really the only issue.

Very truly yours,



Mark R. Kaster

MRK/am

cc: Honorable Crane Winton
All Counsel of Record